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5. Master and Servant (§ 286 (10)*)—Injuries to Servant—Question of Fact.—In a servant's action for personal injuries due to being caught by the spokes of a wheel used to lower a dock to adjust it for loading vessels, evidence that cogs were broken out of the wheel and other cogs damaged held sufficient to warrant the submission of the cause and manner of the injury to the jury.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. § 1017.* 9 Va.-W. Va. Enc. Dig. 726.]

6. Appeal and Error (§ 999 (3)*)—Review—Findings of Fact.—In a servant's action for personal injuries, where the jury has decided that a release given was procured by fraud and misrepresentation, such finding is conclusive on appeal.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 3923, 3924.* 1 Va.-W. Va. Enc. Dig. 621.]

Error to Circuit Court of City of Portsmouth.

Action by Albert B. Brown against the Ferries Company for personal injuries. Judgment for plaintiff, and defendant brings error. Affirmed.

R. R. Hicks, of Norfolk, for plaintiff in error.

James G. Martin and *Daniel Coleman*, both of Norfolk, for defendant in error.

DREWRY, HUGHES CO. *v.* THROCKMORTON.

June 14, 1917.

[82 S. E. 818.]

1. Corporations (§ 156*)—Dividends—Preferred Stock.—Under a provision in a corporate charter and preferred stock certificates giving the preferred stock certain dividends from the net earnings which should accumulate, if not earned in any year, such dividends cumulate while the corporation is a going concern.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 581-583, 593-603.* 12 Va.-W. Va. Enc. Dig. 799 et seq.]

2. Corporations (§ 156*)—Dissolution—Distribution among Stockholders.—A provision in a corporate charter and preferred stock certificates giving preferred stock cumulative dividends, and providing that in case of dissolution such stock should have a prior claim for its face value and any arrears of dividends, gives a preferred claim for the face value of the preferred stock and cumulating dividends to date of the corporation's dissolution, although such dividends may not have been earned.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 581-583, 593-603.* 12 Va.-W. Va. Enc. Dig. 799 et seq.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

3. Corporations (§ 152*)—Dividends—Power to Declare.—A corporation cannot declare dividends unless earned.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 564-567.* 12 Va.-W. Va. Enc. Dig. 798.]

4. Corporations (§ 629*)—Dissolution—Validity of Distribution.—An agreement among stockholders that, upon the corporation's dissolution and after its debts had been paid, the preferred stockholders should receive the face value of their stock and cumulative dividends before other stockholders received any assets of the corporation, is valid.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 2478-2481.* 3 Va.-W. Va. Enc. Dig. 602; 12 Va.-W. Va. Enc. Dig. 799.]

5. Corporations (§ 629*)—Dissolution—Stockholders' Rights.—After a corporation's liquidation commences, preferred and common stockholders are upon the same plane except in so far as they have agreed upon their participation in the company's assets.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 2478-2481.* 3 Va.-W. Va. Enc. Dig. 602; 12 Va.-W. Va. Enc. Dig. 799.]

6. Corporations (§ 156*)—Dissolution—Interest on Preferred Stock Dividends.—Where a corporate charter did not state whether interest should be paid on preferred stock dividends in arrears when the company liquidated, and preferred stock certificates stated that such stock should not receive more than 6 per cent. yearly dividend, and any arrearages with interest, a preferred stock dividend does not bear interest after the date of liquidation, since the stockholders' right should be fixed as of that time.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 581-583, 593-603.* 3 Va.-W. Va. Enc. Dig. 602; 12 Va.-W. Va. Enc. Dig. 799.]

Appeal from Law and Equity Court of City of Richmond.

Controversy between Throckmorton, trustee, and the Drewry, Hughes Company, submitted under Code, §§ 3006-3010. From an adverse judgment, the Drewry, Hughes Company appeals. Affirmed.

Geo. Bryan, of Richmond, for plaintiff in error.

C. W. Throckmorton, of Richmond, for defendant in error.

CHESAPEAKE & O. RY. CO. *v.* JONES.

June 14, 1917.

[92 S. E. 820.]

1. Carriers (§ 332*)—Injuries to Passenger—Contributory Negligence.—Plaintiff, who had his fare paid as a passenger over defend-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.